

Appl. No. 09/838,486

Reply to Office Action of September 16, 2004

Remarks

By this Amendment, Claims 1-12 and 14-20 are pending in this application. Claims 1, 6, 9, 11, 12, 14, 15, 16 and 19 have been amended. Claim 13 has been canceled.

Claim Rejections - 35 USC § 102

The Patent Office rejected Claims 1-7, 9-17, 19 and 20 under 35 USC 102(b) as being anticipated by MacDonald et al., U.S. Patent No. 5,504,453 (MacDonald).

The Patent Office rejected Claims 1-8 and 11-18 under 35 USC 102(b) as being anticipated by Lee, U.S. Patent No. 6,356,599 (Lee).

Applicant respectfully traverses both rejections. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, "anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). Emphasis added.

Claims 1, 11 and 12 include elements that have not been disclosed, taught or suggested by MacDonald or Lee. For example, claims 1, 11 and 12 recite estimating phase error via a minimum to maximum envelope ratio technique. MacDonald and Lee fail to teach, disclose or suggest estimating phase error via a minimum to maximum envelope ratio technique. Consequently, under *Lindemann*, claims 1, 11 and 12 are believed allowable. Claims 2-10 and

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14-20 are believed allowable due to their dependence upon an allowable base claim.

Conclusion

In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

Respectfully submitted,
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Dated: 16 Dec 04

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